THE SUPREME COURT REVERSES JUDGE LACOMBE'S DECISIONS.

They Must Not Only Answer Interstate Commission's Questions Regarding Freight Rates on Coal, but Must Produce Contracts With Temple Iron Co.

WASHINGTON, April 4.—The powers of the Interstate Commerce Commission as regards its investigations of railroad rates are considerably enhanced by the decision handed down by the Supreme Court to-day in what is known as the anthracite coal roads case. The controversy arose over the refusal of David G. Baird and the other presidents of the railroads engaged in the transportation of hard coal to answer questions regarding the price of and rates on goal and to produce their contracts with the Temple Iron Compary in the investigation by the Interstate Commerce Commission of the complaint that these freight rates were unjust and discriminating.

By direction of Attorney-General Knox the case was taken before Judge Lacombe of the United States Court for the Southern district of New York, who upheld the contention of the roads and declared that the demands of the commission exceeded its powers. The Government then appealed directly to the Supreme Court under the provisions of the anti-trust legislation of 1903, and that court immediately advanced

it for hearing. One of the principal points made by the companies was that the case did not come within the provisions of the "expedition of cases" act, as the contracts related not to interstate commerce, but to coal purchased in the State of Pennsylvania; but this and all other contravened questions involved were decided in favor of the Interstate Commerce Commission by a court unanimous, with the exception of Justice Brewer, who

The opinion of the court, delivered by Justice Day, first disposes of the question of the court's jurisdiction over the case and

It was the manifest intention of Congress to facilitate the disposition of cases brought under the direction of the Attorney-General to enforce the provisions of the Anti-Trust and Interstate Commerce statutes. The present proceeding was not merely advisory to the commission, as the judgment rendered would be a final and indisputable basis of action as between the Interstate Commerce Commission and the defendants and would furnish a precedent for similar cases. While it had for its object the obtaining of testimony in aid of proceedings before the commission, it was evident that important questions might be involved touching the power of the commission and the constitutional rights and privileges of citizens. Congress deemed it imperative that such bases, affecting the commerce of the country as well as personal rights, should be determined in a court of last resort. The purpose of Congress was to permit, litigations of this nature to be shortened by a direct appeal to the Supreme Court and the case was properly before the

court.

As to the merits of the controversy, and in particular the visain that the complainant had no real interest in the matter, Justice Day said the law did not require that the complaint be filed by one who had suffered direct damage by the act complained of, but that when such a complaint was filed by "any person, firm or corporation" it became mandatory upon the Interstate Commerce Commission to investigate it, if matters within the powers granted the commission were presented. Those powers included the right to inquire into the management of the business of all common carriers subject to the Enterstate Commerce act and to keep itself informed as to the manner and method in which it was conducted, with the right to obtain from them full and complete information necessary to enable the commission to perform the duties and carry out the objects for which it was created.

As to the rights of the commission in this specific case, it was necessary, he said.

As to the rights of the commission in this specific case, it was necessary, he said, to examine the testimony offered with a view to its competency. Taking up the coal purchase contracts which Judge Lacombe considered irrelevant to the con-troversy because they related solely to the sale of coal in Pennsylvania, and therefore Day said that those contracts were between independent coal operators and certain coal companies. The latter, however, were owned principally by the railroads and the prices paid for the coal were controlled by the price of coal at tidewater. The opinion continues:

prices paid for the coal were controlled by the price of coal at tidewater. The opinion continues:

Here is a railroad company engaged at once in the purchase of coal through a company which it practically owns, and the transportation of the same coal through different States to the seaboard. Why may not the Interstate Commerce Commission, under the powers conferred and under this complaint, inquire into the manner in which this business is done? It has the right to know how interstate commerce is conducted, the relations between the carriers and its shippers, and the rates charged and collected. We see no reason why contracts of this character, which have direct relation to a large amount of its carrying trade, can be withheld from examination as evidence by the commission.

These contracts were made by the officials of the railroad companies, who were also officials of the coal companies, after protracted conferences. Upon the ground that they pertained to the manner of conducting a material part of the business of these interstate carriers, which was under investigation, we think the commission had a right to demand their production. And, further, it is claimed that while these contracts were in form purchases of coal, their real purpose was to fix a rate for transportation to the carriers, who were in fact paid for the only interest they had in the coal—the right to receive pay for its transportation—by the percentage retained from the selling price after deducting charges and expenses in marketing the coal.

If the railroad companies in fact received their compensation for carriage from the sum retained by the coal companies, as was claimed, then whether they realized more or less than their published rates depended upon the price of coal. Taking the prices at the time, as shown in the statements filed with the commission, it is apparent that the 35 per cent. was less than the published rates and if that was the sum received for transportation, would work a discrimination against coal companies not having

ceal companies. The commission or the courts might ultimately find that those contracts did not fix the freight rates, and, as was claimed, the full rate was paid by the coal companies, the loss being made up on other business. That, however, did not affect the relevancy of the contracts in the present investigation. The Interstate Commerce Commission in its inquiries should not be too narrowly restrained by technical rules of evidence, for its function was largely one of investigation, in which it should not be hampered by common law rules.

As to the contention of the companie tracts would in effect compel witnesses to testify against themselves to furnish evidence which might result in forfeiture of their property, in derogation of their rights under the Constitution, Judge Day said the court had already decided in similar sale the court had already decided in similar bases that the constitutional provision did not apply. Neither, as was decided in the Al Adams policy case, did it violate the provision against unreasonable search or seigure.

seizure.

As to the Temple Iron Company contracts, by which five of the leading coal carriers purchased the stock of that company, thereby preventing the building of an independent road, and distributing the output of that company among the roads interested, the opinion says that while those contracts might not, as claimed, show a pooling of freights in violation of the Interstate Commerce law, yet they had in the opinion of the court a legitimate bearing upon the question. There was a division of freight among several railroads, where, by agreement or otherwise, the companies had a common interest in the source from which t was obtained. Furthermore the testimony was competent as bearing upon the nony was competent as bearing upon the manner in which transportation rates were fixed, in view of determining the question fixed, in view of determining the question of reasonableness of rates, into which the ommission had a right to inquire.
To unreasonably hamper the commission

by narrowing its field of inquiry beyond by narrowing its field of inquiry beyond the requirements of the due protection of rights of citizens, the opinion says, would be to seriously impair its usefulness and prevent a realization of the salutary purposes for which it was established by Congress. Upon these principles Presidents Eben E. Thomas and William H. Truesdale, who prosecuted a separate appeal, should likewise be compelled to answer certain questions respecting the prices and sale of coal, as those questions had a legitimate bearing upon the matters into which the commission was making inquiry.

The decisions of Judge Lacombe to the contrary are therefore reversed and the cause is remanded to the United States Court for the Southern District of New York for further proceedings in accordance with this opinion.

this opinion Justice Brewer dissented, but did not

state his views.

PHILADELPHIA, April 4.—Former Judge Campbell, general solicitor of the Reading Company, and chief counsel for the anthracite railroads in the litigation against the so-called "anthracite combine," expressed no surprise to-day when told of the decision handed down by the Supreme Court in the case. He characterized the decision as unimportant, declaring that he had personally looked for just such action.

looked for just such action.

Judge Campbell, when asked if he considered the decision a victory for the other side, said he did not. He asserted that the point decided was merely technical, and would have little or no bearing upon the question at issue.

"These coal contracts," he added, "are

"These coal contracts," he added, "are not secret by any means. We have time and time again produced them before the Interstate Commerce Commission and in the courts. As a matter of fact they are to-day a part of the records of the commission, having been produced during other causes argued before that body.

"We will now proceed to form our defence. This has as yet only been hinted at, so I cannot talk of this phase of the question. I will say, however, that the decision handed down by the Supreme Court does not affect it in the least. We shall produce the contracts asked for, as we really have been willing to produce them at any time."

CHICAGO WINS ONE GAS SUIT. Decision Against Peoples Co. Apparently

Does Not Mean 75-Cent Gas Yet.

WASHINGTON, April 4.-The Supreme Court has affirmed the decision dismissing the suit of the Peoples Gas Light and Coke Company against the City of Chicago. which city proposed to reduce to 75 cents the price to be charged for gas by the company. The company alleged that it had contractual relations with the Legislature under the terms of an act allowing it to charge

\$1 for gas. Judge Grosscup, who heard the case in the United States Circuit Court, recase in the United States Circuit Court, refused to grant the plaintiff an injunction, and this decision the Supreme Court affirms.

The question was whether the Act of the Illinois Legislature of 1897, which fixed the price of gas to be charged by the Peoples company at \$1, extended to the other companies acquired by the Peoples. In the opinion of the court it did not, and the Circuit Court was right in holding that under the present bill the exemption of the People's company from the ordinance fixing the price of gas at 75 cents could not be enforced as to so much of the system as originally belonged to it. That court was, therefore, justified in declining to discuss whether by the consolidation the alleged exemption was lost altogether. In short, the asserted immunity did not extend to so much of the system as passed to the consolidated companies not possessing such immunity in their consolidation that the consolidated companies not possessing such immunity in their consolidation that the consolidated companies not possessing such immunity in their consolidation that the consolidated companies not possessing such immunity in their consolidation that the consolidated companies in the consolidation that the consolidated companies is the consolidation that the consol

of the lower court in dismissing the bill because there was no contract right, as alleged, impaired or destroyed by the city ordinance, was right.

CHICAGO, April 4.—Conflicting opinions were heard here to-day as to the effect of the decision. The version declared to be correct is that the court has upheld a decision of Judge Grosscup, that the Federal court has no jurisdiction as relating to the city ordinances, on which ground Judge Grosscup declined to grant a permanent injunction restraining the city from enforcing the 75 cent ordinance. Now comes the Supreme Court and affirms Judge Grosscup's decision. The result, it is declared, is to settle the question of Federal jurisdiction. The city may now, so far as this proceeding is concerned, enforce the ordinance. The gas company, on the other hand, must go gas company, on the other hand, must go to the State Supreme Court to prevent

point before the Supreme Court was whether or not Judge Grosscup was right in deciding that the United States courts had no jurisdiction in this particular proceeding; and that the Supreme Court affirms Judge Grosscup; thereby remanding the matter

to the State courts.

It was further stated that the city is now under an injunction issued by Judge Grosscup last December in the suit of D. O. Mills, a Peoples Gas stockholder, whose non-residence gave the United States Court jurisdiction, which injunction restrains the city from fixing the price to be charged for gas by the company; and that Judge Grosscup's decision in this case is still to be reviewed by the Supreme Court, the injunction meanwhile standing.

CONGRESS SOON TO ADJOURN.

Leaders in Each House Going Ahead With Their Plans to Get Away This Month. WASHINGTON, April 4 .- The leaders of the Senate and of the House are going ahead with their plans for final adjournment during the present month. There will be no matters of importance pressing for attention after May 1, and it is therefore the purpose of those in control to make good the long standing promise of a "business session."

The last appropriation bill but one has passed the House, and that can be brought in at any time when it is thought advisable. The case of Judge Swayne of Florida will be disposed of in one of various ways under discussion so that the Senate will not be kept here to try the case at this session.

Before the date for final adjournment is definitely fixed there is likely to be another session of lively political debate, both in the Senate and the House. The Senate Republican leaders in particular are much interested in Mr. Gorman's attack on the President last week, and see the necessity of putting a Senate and of the House are going ahead

week, and see the necessity of putting a reply on record. To their disappointment, however, Senator Gorman's speech was withheld for "revision" after delivery and has not yet appeared in the Congressional

It is thought that Bourke Cockran is preparing to make a speech in the House which is expected to supplement the Demo-cratic campaign material already furnished by Mr. Gorman and other Senators.

Postmaster-General Payne to Take a Long

Rest. WASHINGTON, April 4 .- Postmaster-General Payne has decided to leave Washington the latter part of this week for Old Point Comfort, where he will remain for a long rest. For the past week Mr. Payne has been able to walk around his room nas been able to walk around his room with the aid of a pair of crutches, and his physicians consider that he will be well enough by the end of the week to be moved. The length of his stay at Old Point Comfort will depend upon the rapidity of his recovery.

A. H. GREEN'S PERSONALTY

Put at \$1,625,000 -- More Than 100 Mortgages-Owned Valuable Real Estate. The executors of Andrew H. Green have filed an inventory with the Surrogate, in which they estimate his personal property at \$1,625,633. The official appraisal has yet to be made. The inventory contains no estimate of the real estate in this State owned by Mr. Green, but it is said that this will not exceed \$100,000. He also owned real estate in Chicago and in Worcester, Mass., which is very valuable.

The bulk of the personalty was in mortagaes aggregating over \$1,000,000 and exceeding 100 in number. Mr. Green had invested \$154,884 in the United Shoe Machinery Company, \$50,000 in New York iled an inventory with the Surrogate, in

Company, \$50,000 in New York bonds, and \$8,000 in the Staats He has stock in the American Zeitung. Telegraph and Cable Company and the Metropolitan Trust Company.

POMMERY

The Standard for Champagne QUALITY

The World Over

WHETHER UPON VACATION VOYAGES OR AT SOCIAL DINNERS OR FETES, NO CHAMPAGNE IS COMPARA-BLE WITH POMMERY.

NEW YORK POST OFFICE SITE.

SENATE AGREES TO \$2,000,000 APPROPRIATION.

It Provides That the Lease of the New York Central Site and Building Shall Run Ten Years Instead of Twenty-five Years and Rental Shall Not Exceed \$90,000.

WASHINGTON, April 4 .- The Post Office Appropriation bill was taken up in the Senate to-day. Mr. Teller made a point of order against the paragraph providing for the purchase of the Pennsylvania Railroad site in New York city, on the ground that it was general legislation. The point of order was overruled.

The Senate agreed to an amendment offered by Mr. Lodge to the paragraph relating to the lease of a site and building from the New York Central, provided that the lease should on ten years instead of twenty-five years and that the annual rental should be not more than interest annually upon the appraised valuation of the site and cost of the building, not exceeding \$90,000 per annum.

Mr. Patterson of Colorado advocated striking out the paragraph for the purchase of the Pennsylvania Railroad site and the adoption of the House paragraph providing for a lease of the property The Senate did not take Mr. Patterson's

view of the matter, and agreed to the committee amendment appropriating \$2,000,000 for the purchase of the site. The committee amendment placing the free delivery service under the charge of the First Assistant Postmaster-General

was agreed to. The committee had struck out the House provision providing that no money should be expended for telephone service in any post office where the postmaster is required to use only the Bell telephone. Mr. Clapp of Minnesota offered an amendment, as a substitute, providing that all telephone companies shall have an opportunity to furnish service to nostmasters.

to furnish service to postmasters.

Mr. Lodge, in charge of the bill, read
a letter from the Postmaster-General saya letter from the Postmaster-General saying that the facts in each particular cases were considered in installing telephones, and that the factor of cost was the first thing considered, though long distance facilities were also considered. No telephone company was favored or discriminated against. A letter from the First Assistant Postmaster-General to the same effect was also read, submitting a list of offices having telephones. The Clapp amendment was agreed to.

Grand an sale to-day Mr. moody had this to say.

"I have made a pretty careful inquiry is to the statements that have been published. This does not show that any one sent telegrams to the court of inquiry. This much is certain: Ne such telegrams were sent from the White House or from my office. I intend to continue the investigation, and quick and positive action will be taken in the case. I intend to probe the matter to the bottom. It is the desire of both the President and myself that there

Representatives of the business interests of New York city will hold a conference here to-morrow morning with the members of the New York delegation in the House and officers of the Pennsylvania Railroad and officers of the Pennsylvania harroad to talk over the prospects for an appropriation for the New York post office building at this session of Congress. Secretary of the Treasury Shaw will represent the Treasury, Department of Justice and Post Office Department, and those present will endeavor to come to some agreement as to the tweet what demands to urge upon Congress. ust what demands to urge upon Congress Unless something is done very speedil toward uniting upon one or the other projects now under consideration, the indica tions are that there will be no appropr ation at all at this session.

NEGROES IN SUPREME COURT They Fill the Space Given to Visitors and Crowd the Corridor to the Rotunda.

WASHINGTON, April 4.-The Supreme Court to-day, after a recess of two weeks handed down opinions in forty-seven cases. The court displayed unusual unanimity in the conclusions reached, there being dissent in but one case, and that by a single Justice.

The space in the court room given over to visitors was occupied almost exclusively by members of the African race, and all day a long line of those unable to gain admission reached down through the corridor to the rotunda of the Capitol. The presence of such an unusual number of colored people was due to the arguments in the Virginia franchise case, in which they were especially concerned, and to the fact that notice was read last night in many of the colored churches of the city requesting the attendance of members. One of the counsel in the case is a colored man, but he was not heard to-day, because John S. Wise, the principal counsel for the disfranchised, occupied the entire session in his arguments against the constitutionality of the act of the Virginia Legislature. day a long line of those unable to gain

NO DANGER OF MASSACRE. Reports of Possible Anti-Jewish Demo strations in Odessa.

WASHINGTON, April 4.-Mr. McCormick, the American Ambassador at St. Petersburg, sent the following telegram to the State Department to-day:

"A rumor concerning a possible demon stration against the Jews at Odessa having reached me, I communicated with the United States Consul there, asking him if it were well founded. He replied to

if it were well founded. He replied to me as fellows:

"Reports of anti-Jewish demonstrations are not unusual at this season of the year. Owing to the occurrence of last Easter, the Hebrew population is exceedingly nervous, but with so energetic and humane a man as Gov. Neidhart in charge of the city and with Baron Kualbars as commander-in-chief of the troops in this southern country. I should regard a serious outbreak of any kind as impossible. During the present week the official newspapers have contained notices to the public warning these who disturb the peace that they will be dealt with severely."

The Russian Easter comes on April 10.

Russia Yields on the Sealing Question. OTTAWA, April 4.-Advices received by the Government say that the Russian commissioners have withdrawn from their untenable position on the Behring Sea untenable position on the Benring Sea sealing question. The only question which the commission had to determine was the question of compensation due to British Columbia sealers who suffered unlawful seizure at the hands of the Russians over ten years ago. It is learned that some of the claims have been adjusted.

STIR OVER CAPT. COWLES'S CASE. Charge by Implication That the Court of Inquiry Was Tampered With.

WASHINGTON, April 4 .- Ever since the publication by the Navy Department of the findings and opinions of the court of inquiry which investigated the collision between the battleships Illinois and Missouri, off Guantanamo, Cuba, the court's recommendation that no further proceedings should be taken has been the subject of much comment in naval circles. At first this comment dealt merely with the question of whether the court was right or vrong in its conclusions, but the matter has now taken a new and more interesting turn, in the charge, by implication, printed in the Army and Navy Journal, that an attempt had been made by somebody of important official position in Washington to influence the court's action. The Army and Navy Journal said:

"The record does not include the two despatches sent by 'high authority' at Washington to a member of the court previous to the finding." Secretary of the Navy Moody had a

long talk with President Roosevelt to-day about what the Army and Navy Journal had said. To understand Mr. Moody's reason for bringing the matter to the President's attention it is necessary to know that Capt. william S. Cowles, who commanded the Missouri at the time of the collision and still commands her, is Mr. Roosevelt's brother-in-law. In its "opinion" the court of inquiry exonerated Capt. Royal B. Bradford of the Illinois and all aboard his ship, but said that the failure of the Missouri, after her steering engine became junmanageable, to convey to the Illinois "direct and immediate information as to actual conditions aboard the Missouri was, in the opinion of the court, the secondary cause pinion of the court, the secondary cause f the collision."

The criticism of President Roosevelt's

brother-in-law naturally gave rise to comment and attracted attention in the office of the Secretary of the Navy, and when it was followed by the statement in the Army was followed by the statement in the Army and Navy Journal, indicating that somebody here had attempted to tamper with the court, Secretary Moody thought it was high time to tell the President what was being said. After his talk with the President to-day Mr. Moody had this to say:

"I have made a pretty careful inquiry as to the statements that have been published. This does not show that any one sent telegrams to the court of inquiry. This much is certain: No such telegrams were sent from the White House or from my office. I intend to continue the investigation, and quick and positive action will

offices having telephones. The chappy amendment was agreed to.

Mr. Fairbanks (Rep., Ind.) offered an amendment appropriating \$500,000 for the purchase of square 324, Washington, as the site for an addition to the Post Office Building.

The Senate without disposing of the Post Office bill put in half an hour disposing pension bills, and at 5:15 adjourned with the proprow.

both the President and myself that there is shall be a most rigid investigation."

Outside the fact that Capt. Cowles is President Rooseveft's brother-in-law, the Illinois-Missouri collision case has attracted attention in naval circles. It was the opinion of many naval officers that Secretary Moody in other similar cases had laid down the principle that where a court of inquiry recommended that no further action should be had, the recommedination should be be had, the recommediation should be disapproved if the court left any doubt of the culpability of an officer or the officer under investigation, and the officer or officers implicated be ordered to trial by ourt-martial.

> WHO SOLD ROGERS WORKS? Nothing Definite Known, Except That the

Locomotive Trust Is in Control. PATERSON, N. J., April 4 .- The announce ment that the Rogers Locomotive Works had passed into the control of the American Locomotive Company was discussed widely in this city to-day. Nothing definite, however, could be learned as to who of the stockholders sold out to the trust. It transpired to-day that some time ago a pool of the largest holders of Rogers Works stock were arranging to sell out to the trust. Among these, it is said, were Robert C. Pruyn, the Albany millionaire and trolley magnate; Stephen Peabody, he New York banker; E. H. Norton & Co. New York bankers; J. D. Probst of Engle-

wood and others. The pool did not include Col. William Barbour, the largest individual holder of Rogers stock. When Col. Barbour learned of the pool's intentions he disposed of all

President Hoadley of the International Power Company, who promoted the American Locomotive Company, has made several efforts to secure control of the Rogers

eral efforts to secure control of the Rogers works since they were placed upon the market in a sensational manner by the late Jacob S. Rogers.

In 1900 Mr. Rogers announced that he would shut down the works on Dec. 1 of that year. They were then running on full time, and the announcement came like an exploding bombshell to the employees. Every effort was made to have the eccentric locomotive builder reconsider his determination, but without avail. ermination, but without avail.

tric locomotive builder reconsider his determination, but without avail.

Attempts were made to interest local capital in the works, but these failed and the company operating it, of the stock of which Jacob Rogers owned the greater part, went into the hands of receivers.

Col. William Barbour and John C. Pennington were named to take charge of the works. The receivers sold the plant to a syndicate formed by Elliot C. Smith and Frank P. Holran of New York for \$602,000, of which \$102,000 was to be paid in eash. When the courts were asked to approve the sale President Hoadley of the International Company asked the court to set aside the sale, saying that he had offered \$655,000 for the works. Between Hoadley and the eccentric Rogers, who thought the receivers were favoring the syndicate, the sale are said and the sale ways that closed until the sum. the receivers were favoring the syndicate the works were kept closed until the sum-

the works were kept mer of 1901.

The courts finally decided in favor of the sale made by the receivers, and the syndicate set to work improving the plant by replacing dilapidated buildings and by replacing dilapidated buildings machinery. A company was organized to operate the works. It was capitalized at \$2,000,000. The officers were: John Havron, president; George E. Hannah, vice-president; F. P. Holran, treasurer; Reuben Wells, general manager.

Miss Johnston Head of Brooklyn Training

Miss Emma L. Johnston was formally installed yesterday morning as principa of the Brooklyn Training School for Teach ers. Frank L. Babbett, chairman of the school committee, presided. Addresses were made by Superintendent Maxwell, Chancellor MacCracken of the New York University Miss Johnston and several members of the Board of Education. Miss Johnston is the first woman appointed to the principalship of a high or training school in the city.

KILL THIS BOSTWICK BILL. IT REMOVES PROBIBITION OF PATENTED PAVEMENTS,

and Means a Return to the Paving Scandals of the Days of Tweed—Would Give to One Company a Monopoly of High Prices on Coal Tar Pavements.

ALBANY, April 4 .- One of the "job" bills that the Assembly Committee on Rules is expected to jam through the House during the closing days of the session is the bill introduced by Assemblyman Bostwick which declares that the provision of the New York city Charter that no patented article shall be contracted for by the city shall not apply to a patented pavement. The enactment of this bill would mean a return to the paving scandals of the days of Tweed, when many miles of worthless block patent pavement were laid in New York city.

The clause in the Charter prohibiting the specifying of a patented pavement has re mained intact for over thirty years and was enacted as a result of the Tweed pav-ing scandals. The Bostwick bill is designed to let in without competition a certain patented coal tar pavement, in which s used a certain brand of oil, which can be furnished only by the company owning this patent pavement.

When this bill was introduced Mr. Bostwick announced that its object was to "bust" the Barber asphalt trust and to provide for open competition and lower prices for asphalt pavement. Those who oppos the Bostwick bill, however, contend that there is no asphalt trust now and that the competition among contractors is so sharp that prices have been cut squarely in two since the Van Wyck administration.

The specifications for sheet asphalt paving in the city of New York admit the ase of any kind of asphalt. Under these open specifications an enormous quantity of work has been taken at very low prices, of which the Barber company has secured, by competitive bidding, but a relatively small propertion.

The official records show that during the years 1902-1903 there were eleven paving companies actively bidding for work in New York, including the Barber Asphalt Paving Company. In 1902, out of 1,320,000 yards, the Barber company secured 291,000 in 1903, out of 2,394,000 yards, the Barber

expression in 1908, out of 2,332,000 yards, the harber company secured 528,000, in each case less than one-fourth of the total.

That competition was severe is shown by the extremely low prices at which the work was taken, being in all cases under \$1.50 per yard for binder and top, and in many cases running down to less than \$1.10 and in some cases to \$1 per yard. These prices represent cost, and in some \$1.10 and in some cases to \$1 per yard. These prices represent cost, and in some cases less than cost of doing the work.

It is interesting to compare these prices with the bidding which took place on Oct.
22. 1903, for the paving of Seventy-second street from Central Park West to Riverside Park. There were four bidders on sheet asphalt, one on asphalt blocks and one on bituminous macadam. The lowest bid on sheet asphalt was \$1.35 by the Uvalde company and the next lowest \$1.595 by company and the next lowest \$1.595 by the Barber company; the bid on asphalt blocks by the Hastings Paving Company was \$2.23 and the bid on Warren Bros."

was \$2.23 and the bid on Warren Bros. bituminous macadam pavement, manufactured from coal tar, was \$2.40 per square yard, or \$1.05 per square yard higher than the best bid for sheet asphalt.

Under the specifications for "bituminous macadam" no one could bid except Warren Bros.; their monopoly was absolute and complete. The city awarded the contract to the Warren Brothers Company, but upon appeal to the courts it was held to be contrary to the charter of the city; hence this effort to procure legislation to permit the Warren Brothers Company to legally exercise their monopoly of high prices on coal tar pavements in the city of New York.

HERNE'S PLAY "SAG HARBOR." Appeal From the Injunction Preventing Its Rental to Stock Companies.

the late James A. Herne's famous play 'Sag Harbor" were argued to-day before the Court of Appeals. Theodore A. Liebler and others composing the theatrical firm of Liebler & Co. are the appellants. having been sued by Mrs. Katherine C. Herne, widow and executrix of James A. Herne, to prevent the renting of "Sag Harbor" to stock companies and to recover the amount received from such rentals. In August, 1899, Mr. Herne entered into an agreement with the defendants whereby

they were to produce "Sag Harbor." paying they were to produce "Sag Harbor." paying him 50 per cent. of the profits. Daring the first season, Liebler & Co. allege, the play was presented at a small profit, but the second season showed a loss, and Mr. Herne, who had been taking the principal part at a salary of \$500 a week, died. At this time Liebler & Co. started renting the piece to stock companies for \$250 a week, but Mrs. Herne soon secured an injunction, contending that the contract provided that "Sag Harbor" should be played in first class houses and by first class companies and only by Mrs. Herne. The in junctions were sustained and the plaintiff allowed to recover \$850 for rentals received allowed to recover \$850 for rentals received from stock companies. Liebler & Co. from stock companies. Liebler & Coappeal from both of these judgments.

Woman's Municipal League Incorporated. ALBANY, April 4.- The Woman's Muniipal League of the City of New York has been incorporated with the Secretary of State to promote among women a intelligent interest in the municipal affairs and to aid in securing permanent good government for the city of New York without regard to party or sectional lines. The directors are Margaret L. Chanler, Elsie Clews Parsons, Grace H. Dodge, Sadie American, Helen Van C. de Peyster, Anna L. Brown, Fannie G. Parsons, Catherine S. Leverich, Adeline S. Slicer, Margaret P. Strong, Anna M. Jackson and Selina, S. Riker of New York, and Mary L. Bush, Carolina A. Creavy and Margaret D. Drie, Caroline A. Creery and Margaret D. Dries of Brooklyn.

Port Wardens Nominated and Confirmed. ALBANY, April 4 .- Gov. Odell sent to the Senate to-night the following nominations for Port Wardens of the Port of New York and they were confirmed at once: Hobert T. Courtney of Troy, James F. Pegnam, John H. Gunner, Charles S. Adler of New York city and Daniel G. Vedder of Sche-

The Seagoers.

Among the voyagers by the Holland-America steamship Potsdam, which sails o-day for Boulogne and Rotterdam, are: Mr. and Mrs. John Boyd Thacher, Mrs. Charles J. Carew. Mr. and Mrs. Edward C. Mix, Mrs. A. N. Shaw, Alexander Crichton, Mr. and Mrs. James L. de Fremery, Dr. and Mrs. T. L. Stedman, Henry H. Stoddard, Mrs. E. A. Walker and Mrs. Sallie

OYSTER BAT, L. I., April 4 .- The high school of this place is to receive a set of nistorical engravings and a slik flag for maintaining one of the best kept school grounds in the State. An effort is to be made to have President Roosevelt make the presentation when he visits his home at agamore Hill, which is expected to be

Chicago Newspaper Changes Hands. CHICAGO, April 4 .- The Chicago Journal, an evening newspaper, announces to-day that it has been purchased by John C. Rastman of Chicago and E. W. Harden of New York, they having secured the stock owned by Ralph H. Booth and his associates in Detroit. The sale was effected through Charles M. Palmer.

SKIN AND BLOOD **PURIFICATION** 

Cuticura Soap, Ointment and Pills

Cleanse the Skin, Scalp and Blood

Of Torturing, Disfiguring, Humours with Loss of Hair

COMPLETE TREATMENT \$1.00

Thousands of the world's best people have found instant relief and speedy cure by the use of Cuticura Soap, Ointment and Pills in the most torturing and disfiguring of itching, burning and scaly numours, eczemas, rashes, itchings and inflammations.

Thousands of tired, fretted mothers. of skin-tortured and disfigured bables, of all ages and conditions, have certified to almost miraculous cures by the Cuticura remedies, when the best medical skill had failed to relieve, much

Cuticura Treatment is local and constitutional - complete and perfect, pure, sweet and wholesome. Bathe the affected surfaces with Cuticura Soap and hot water to cleause the skin of crusts and scales and soften the thickened cuticle, dry without hard rubbing, and apply Cuticura Olntment freely to allay itching, irritation and inflammation, and soothe and heal, and lastly Cuticura Resolvent Pills to cool and cleanse the blood, and put every function in a state of healthy activity. More great cures of simple, scrofulous and hereditary humours are daily made by Cuticura remedies than by all other blood and skin remedies combined, a single set being often sufficient to cure the most distressing cases when all

Sold throughout the world. Cutieura Resolvent, Soc. (In form o. Chocolate Coated Pills, 25c., per vial of 60), (Dintment, Fe., Sop., 25c. Depots: Lendon. 27 Charter-house Eq.: Paris. 5 Rue de la Paix: Besten. 137 Columbus Ave. Peter Drug and Chem. Corp., Sole Progr. agr Beed for "Skin and Blood Paridestien."

DELAY FOR CHINESE BRIDE

HEARING IN HER CASE IS PUT OVER UNTIL TO-DAY,

After Gerry Agents Kick Because an Immigration Inspector Wants to Expedite Matters--His Department Will Take Part in the Proceedings. After having obtained two delays in the

hearing of the case of Moy Hueng, the bride of Chinatown who has been held a prisoner for a week by the Gerry society, E. Fellows Jenkins, superintendent of the society, through his attorney, Mr. Townsend, asked yesterday for another post-ponement "in order to obtain further evidence." The case was down for a hearing yes-

terday. When court opened, however Mr. Jenkins announced to a reporter that the matter would not be mentioned in court until Wednesday. Later, however, the hearing was set for this morning. This decision was reached after a visit by an ALBANY, April 4.- Two actions involving inspector from the Chinese bureau of the immigration department. The inspec had an armful of official documents. "We need more time to procure further

evidence in this matter," said one of the Gerry officials. 'Why should you come to ask us to rush this matter?" The officer from the immigration bureau displayed one of his documents to the legal

adviser of the Children's Society and the date of the hearing was immediately changed. When seen later by a reporter from THE

Sun the Chinese inspector said that the contents of the documents in his possession were the property of the Government and that he could not reveal their character. He said, however, that the burden of proof now lies on the Gerry society and that in order to prove that Moy Hueng is in any way under their jurisdiction they will have to show frauds against the immigration department.

"She was admitted to this country at Boston," he said, "and the inspector there has records of every Oriental who landed at that port. Mov could not have come to this country, if a minor, unless accompanied by her father. If she is a minor, then she must have been brought here by those who proved to the satisfaction of the inspectors that she was their child. the inspectors that she was their child. It would be hard to go past this record and prove fraud against the Government.

"If these people are not her parents and she was passed into this country admitting that she was not the child of those whe now claim to be her parents, she must have been of age. In either case it takes the matter out of the jurisdiction of the Gerry society. All that we know about

POSTUM CEREAL. EMPTY NOW How One Woman Quit Medicine.

"While a coffee user my stomach troubled me for years," says a lady of Columbus O., "and I had to take medicine all th time. I had what I thought was the best stomach medicine I could get; had to keep getting it filled all the time at 40 cents bottle. I did not know what the cause of

my trouble was, but just dragged along

from day to day, suffering and taking

medicine all the time. "About six months ago I quit tea and coffee and began drinking Postum, and I have not had my prescription filled since, which is a great surprise to me, for it proves that coffee was the cause of all my trouble although I never suspected it.

"When my friends ask me how I fee since I have been taking Postum, I say, To tell the truth, I don't feel at all, only inat I get hungry and eat everything I want and lots of it, and it never burts me and I am happy and well and contented all the time.'

"I could not get my family to drink Pestum for a while until I mixed it in a little coffee and kept on reducing the amount of coffee until I got it all Postum. Now they all like it and they never belch it up like coffee. "We all know that Postum is a sunshine

maker. I find it heips one greatly, for we do not have to think of aches and pains

we do not have to think of aches and pains all the time and can use our minds for other things." Name given by Postum Co., Battle Creek, Mich.

The one who has to bother with coffee aches and pains is badly handicapped in the race for fame and fortune. Postum is a wonderful rebuilder. There's a reason. Look in each pkg. for the famous little book, "The Road to Wellville."

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"The display as a whole is far above the average."-THE SUN. "Not since the Portrait show have the American Art Galleries presented so handsome appearance

as they now wear."-THE MAIL. "The most important Art Sale that New York has had in many years."-THE PRESS.

"The display is one of dignity and artistic merit. It will be quite the most noteworthy affair of the season."-THE GLOBE.

UNRESTRICTED PUBLIC SALE. Thursday and Friday **Evenings** of this week. Beginning promptly at

8.30 o'clock Mendelssohn Hall,

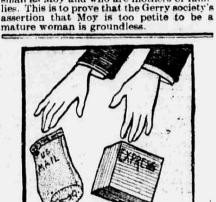
40th Street, East of Broadway. (Admission by eard, to be had free.) The sale will be conducted by

THOMAS E. KIRBY, of the AMERICAN ART ASSOCIATION, Managers 6 East 23d St., Madison Square South. he case will be brought out in court to-

morrow morning."
When Mr. Townsend was asked yesterday if there were any new developments in the case he expressed an unwillingness to discuss the matter.

Ah Hueng, Moy's father, is expected to arrive here early this morning in time to attend the hearing of the case.

Mrs. Toy's trial for abduction will also Mrs. Toy's trial for abduction will also be held this morning in the Centre street court. She has innumerable witnesses to vouch for her respectability and the legitimacy of her mission to Boston to bring Lee Hoy's bride to him. She also has a number of Chinese women who are as small as Moy and who are mothers of family



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